

**REMARKS/ARGUMENTS**

Reconsideration of this application is requested in conjunction with the concurrently filed RCE.

The rejection of claims 17, 20, 35, 39, 40, 43 and 45 under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the enablement requirement is respectfully traversed.

The Examiner objects to recitations requiring automatic changing of the user's mode of communication so as to accommodate a detected impairment of the ability of the user to continue communication in the current mode. In particular, the Advisory Action indicates that the Examiner has found support for neither the "automatic changing," nor the "detected impairment" features of the claimed invention. To obviate this rejection and also improve the form of the claims, the claims have been amended to now require "automatically changing, without any additional user input, the user's mode of communication to a second communication mode so as to accommodate the detected impairment."

Support for the "automatically changing, without any additional user input" part of the limitation can be found throughout the original specification. The last three lines of the first page of the original specification and the first three lines on the second page provide one particular example in summary form. In this example, it is clear that it is the user interface -- not the user -- that is responsive to an output of the physical detector and makes a corresponding adjustment to output by visual display means and/or audio output

means. In another example, at page 2, lines 5-11, it is clear that the a physical detector detects location attributes of the user and the output is dependent upon the location attributes of the user detected by the physical detector. Thus, there is no additional user input and, since there is no additional user input, there is an automatic change. The current claim language reflects the relationship between the detection of an impairment and the change in communication mode, as well as the lack of relationship between the change and any additional user input. Thus, the “automatically changing, without any additional user input” feature of the claims is clearly supported.

Support for the “detected impairment” part of the limitation also can be found throughout the original specification. By way of example and without limitation, pages 8-9 of the original specification discuss detecting physical and location information such as whether the user is standing, walking, or sitting; whether the user is inside or outside; how fast the user is moving (if at all); etc. The application goes on to describe how such information may be used to determine whether there is an impairment. For example, there may be an impairment when the user is running (which might cause the device to divert alerts to a messaging service). Another example of an impairment relates to the ambient detected acoustics, ambient noise level, etc. of the real world space in which the user is located (which might cause the user’s device to match the detected acoustics, ambient noise level, etc.). Thus, the specification provides examples of what might constitute an impairment, describes how such impairments may be detected, and indicates

the corresponding response of the device. Thus the “detected impairment” feature of the claims is clearly supported.

In view of the above, applicant respectfully requests that the rejection under 35 U.S.C. § 112, first paragraph, be withdrawn.

The continued rejection of claims 17-23, 25-29, 31-33, 35-37, 39, 40 and 42-46 under 35 U.S.C. §102 as allegedly anticipated by Filo ‘498 is again respectfully traversed.

Filo discloses systems and methods to be used in connection with a virtual command post (VCP). The Examiner relies on col. 10, line 51 through col. 11, line 11, as allegedly disclosing detecting means for detecting an environmental or physical attribute impairing the ability of the user to continue communication in a currently occurring mode. This portion of Filo relates to an “immersed user” in a virtual environment using a phone and pager to communicate with the “outside world.” When a call comes in from the outside world, the audio linked to the VCP for the particular immersed user is “disengaged” so that other immersed users will not be privy to that call. A phone icon may be displayed next to the avatar receiving the call.

In Filo (10:51 - 11:11), a “personal tool set” is software adapted for use by executive and operations level users (10:24-26), and comprises a radio, a phone, a pager, an audio/visual recorder, a clipboard, a files feature, and a printer. These tools are personal and private to the particular user (10:29-34).

An “immersed user” in a virtual Filo environment uses the phone and pager to communicate with the “outside world,” i.e., outside the virtual environment, without leaving the virtual environment. If and when the user receives and takes a call from the outside world on his phone, this temporarily “disengages” the audio link to the virtual command post (VCP) -- because the “immersed user” has decided to accept the outside call and thus to disengage from the virtual world at least for the duration of the outside call. It appears that the outside call is of a “private” nature (11:11), hence the need for the user to take the call “without the conversation being overhead by other users immersed in the virtual environment” (11:6-8).

It thus seems that a call could be transmitted either (i) via the audio link to the VCP, where the user’s communication can be heard within the virtual environment/VCP, or (ii) via (presumably) an earpiece of the phone, which (presumably) the user holds up to his ear to disengage the private communication. However, “disengagement” from the virtual environment is not the result of a detected environmental or physical attribute which impairs the user’s communication ability. Instead, whether the call is communicated over mode (i) or mode (ii) is determined by the nature of the incoming call itself. If it is with the “outside world,” then audio with the VCP is disengaged. Presumably, if the call is not with the outside world, i.e., if the user is communicating with someone also immersed in the virtual world, then the call is taken over an audio link within the VCP. This must be the case, as we are told in col. 10, lines 31-34 that the tool

set (including the phone) is personal to the user and use thereof is invisible to other (immersed) users.

Filo thus does not teach or suggest a “detecting means for detecting an impairment of the ability of the user to communicate in a first communication mode based on an environmental or physical attribute.” The communication modes in Filo are selected depending on the nature of the incoming call, i.e., whether the call is from someone within the virtual environment, or in the outside world. There is no “detection” of an environmental or physical attribute of the user -- nor any other attribute external to the nature of the incoming call itself.

The applicant also discusses privacy issues (e.g., the user is no longer alone -- page 4, lines 27-31: “[p]rivacy may be an issue . . .”), but in a different way. Lack or loss of privacy prompts a communication mode change either when this is indicated manually by the user, or automatically detected by the audio and/or video inputs of the mobile device (page 4:31-page 5:5 and page 9:34-page 10:7). This is very different from the Filo approach where the communication mode depends on the nature of the incoming call.

In marked contrast to Filo, the invention of the claims requires “detecting an impairment of the ability of the user to communicate in a first communication mode based on an environmental or physical attribute” and causing a corresponding change in communication modes only when there is a detected impairment related to an environmental or physical attribute. Thus, unlike Filo, the nature of the incoming call is

BOWSKILL et al  
Appl. No. 10/088,346  
May 14, 2007 (Monday)

irrelevant and need not be determined or accounted for. In a nutshell, Filo simply does not teach or suggest changing communication modes based on an environmental or physical attribute.

As such, applicant respectfully requests that the rejection under 35 U.S.C. § 102 be withdrawn.

The rejection of claims 24, 30 and 34 under 35 U.S.C. §103 as allegedly being made “obvious” based on Filo ‘498 in view of Nitta ‘306 is also respectfully traversed.

Fundamental deficiencies of Filo have already been noted above with respect to parent claim 17. Nitta does not supply those deficiencies and therefore it is unnecessary to further discuss the additional deficiencies of this allegedly “obvious” combination of references at this time.

The rejection of claims 38 and 41 under 35 U.S.C. §103 as allegedly being made “obvious” based on Filo in view of Sun ‘740 is also respectfully traversed -- for the same reasons.

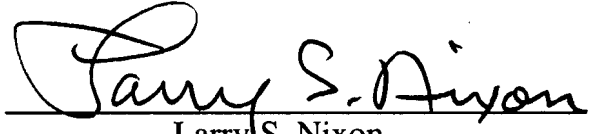
Accordingly, this entire application is still believed to be in allowable condition and a formal Notice of that effect is respectfully submitted.

BOWSKILL et al  
Appl. No. 10/088,346  
May 14, 2007 (Monday)

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:

  
Larry S. Nixon  
Reg. No. 25,640

LSN:jr  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100